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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
GARY JAMES ROLLER, )  
 )  
Defendant. )  
 )  
 )  
 )  
 )  
 )

No. CR 08-00361(A) RMW

**STIPULATION AND []  
ORDER SETTING TRIAL DATE ON  
MARCH 28, 2011, AND EXCLUDING  
TIME FROM FEBRUARY 8, 2011 TO  
MARCH 28, 2011, FROM  
CALCULATIONS UNDER THE  
SPEEDY TRIAL ACT (18 U.S.C. § 3161)**

The parties hereby request that the Court enter this order setting a trial date for March 28, 2011, and excluding time from February 8, 2011 to March 28, 2011. The parties, including the defendant, stipulate as follows:

1. The defendant understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18 U.S.C. § 3161, for the period from February 8, 2011 to March 28, 2011 based upon the need for the defense counsel to investigate further the facts of the present case and determine what, if any, additional motions and defenses are appropriate. Defense counsel will be involved in several criminal matters, including a trial, in the next few months and will

1 require additional time to prepare for trial. Therefore, for effective preparation of defense  
 2 counsel and continuity of counsel, the parties respectfully request that the Court vacate the  
 3 current trial date of February 7, 2011, set a March 28, 2011 as the date for trial in this matter and  
 4 March 17, 2011 as the date for the pretrial conference in this case.

5 2. The attorney for defendant joins in the request to exclude time under the Speedy Trial  
 6 Act, 18 U.S.C. § 3161, for the above reasons, and believes the exclusion of time is necessary for  
 7 effective preparation of the defense and continuity of defense counsel; believes the exclusion is  
 8 in the defendant's best interests; and further agrees that the exclusion under the Speedy Trial  
 9 Act, 18 U.S.C. § 3161, should be for the period from February 8, 2011 to March 28, 2011.

10 Given these circumstances, the parties believe, and request that the Court find, that the  
 11 ends of justice are served by excluding from calculations the period from February 8, 2011 to  
 12 March 28, 2011 outweigh the best interests of the public and the defendant in a speedy trial  
 13 under the Speedy Trial Act, 18 U.S.C. § 3161(h)(7)(A) & (B)(iv).

14 IT IS SO STIPULATED.

15 DATED: January 4, 2011

/s/ Richard Pointer  
 RICHARD POINTER  
 Attorney for Defendant

18 DATED: January 4, 2011

/s/ Hanley Chew  
 HANLEY CHEW  
 Assistant United States Attorney  
 Attorney for Plaintiff

## 21 **[ ] ORDER**

22 Having considered the stipulation of the parties, the Court finds that: (1) the defendant  
 23 understands and agrees to the exclusion of time from calculations under the Speedy Trial Act, 18  
 24 U.S.C. § 3161, from February 8, 2011 to March 28, 2011, based on the need for the defense  
 25 counsel to investigate further the facts of the present case, review the discovery that the  
 26 government has already provided and will provide and evaluate further possible defenses and  
 27 motions available to the defendant and otherwise prepare for trial; (2) the exclusion of time is  
 28 necessary for effective preparation of the defense and continuity of counsel and is in the

1 defendant's best interests; and (3) the ends of justice are served by excluding from Speedy Trial  
2 calculations the period from February 8, 2011 to March 28, 2011.

3 Accordingly, the Court further orders that (1) trial in this case be scheduled for March 28,  
4 2011 and pretrial conference in this case be scheduled for March 17, 2011 at 2:00 p.m.; and (2)  
5 the time from February 8, 2011 to March 28, 2011 is excluded from time calculations under the  
6 Speedy Trial Act, 18 U.S.C. § 3161.

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8 IT IS SO ORDERED.

9 DATED: 1/19/11

  
10 THE HONORABLE RONALD M. WHYTE  
11 United States District Court Judge  
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